

**CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST—SUPPORTING STATEMENT
TRUTH IN LENDING ACT (REGULATION Z)
12 CFR 1026
(OMB CONTROL NUMBER: 3170-0028)**

OMB TERMS OF CLEARANCE:

When the Office of Management and Budget (OMB) last reviewed the information collections inventoried under OMB control number 3170-0028, no terms of clearance were provided (see OMB Notice of Action dated 04/26/2013).

ABSTRACT:

The Consumer Financial Protection Bureau (the Bureau) is proposing to amend Regulation Z, which implements the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.*, and the official interpretation of the regulation. Regulation Z was enacted to foster comparison credit shopping and informed credit decision making by requiring accurate disclosure of the costs and terms of credit to consumers and to protect consumers against inaccurate and unfair credit billing practices.

The Consumer Financial Protection Bureau (Bureau) is dividing proposed rules to amend the Bureau's Regulations X and Z into separate Information Collection Requests (ICRs) in OMB's system (accessible at www.reginfo.gov) to ease the public's ability to view and understand the individual proposed rules for Regulation X and Regulation Z. Respondents should continue to use the 3170-0016 control number for Regulation X and the 3170-0015 control number for Regulation Z.

PART A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

The Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.*, was enacted to foster comparison credit shopping and informed credit decision making by requiring accurate disclosure of the costs and terms of credit to consumers and to protect consumers against inaccurate and unfair credit billing practices. Creditors are subject to disclosure and other requirements that apply to open-end credit (*e.g.*, revolving credit or credit lines) and closed-end credit (*e.g.*, installment financing). TILA imposes disclosure requirements on all types of creditors in connection with consumer credit, including mortgage companies, finance companies, retailers, and credit card issuers, to ensure that consumers are fully apprised of the terms of financing prior to consummation of the transaction and, as in the case of the regulations covered by this rulemaking, during the loan term. Regulation Z was previously implemented by the Board of Governors of the Federal Reserve System (Board) at 12 CFR 226. In light of the transfer of the Board's rulemaking authority for TILA to the CFPB, the CFPB adopted an interim final rule (Interim Final Rule) recodifying the Board's Regulation Z at 12 CFR 1026. The CFPB enforces TILA as to certain creditors and advertisers. TILA also contains a private right of action for consumers.

The Dodd-Frank Act amended TILA and the Real Estate Settlement Procedures Act (RESPA) by, among other things, mandating new mortgage servicing disclosures and procedures to improve protections for consumers with certain residential mortgages. 12 U.S.C. 2601 *et seq.*; 15 U.S.C. 1638a, 1638(f), 1639f, and 1639g. The CFPB amended Regulation Z to implement the new TILA mortgage servicing provisions required by the Dodd-Frank Act and revised Regulation Z's adjustable-rate mortgage rules under § 1026.20(c) and (d).

Since January 10, 2014, the effective date of the Mortgage Servicing Rules, the Bureau has continued to engage in ongoing outreach and monitoring with consumer advocacy groups, industry representatives, housing counselors, and other stakeholders. As a result, the Bureau has identified further issues. On November 20, 2014, the Bureau issued a proposed rule that provides several amendments to revise regulatory provisions and official interpretations relating to the Regulation X and Z mortgage servicing rules. The proposed amendments to Regulation Z include changes to the treatment of successors in interest, prompt payment crediting, the requirement to send periodic statements, and the small servicer definition. The proposal provides that servicers treat a confirmed successor in interest as a "consumer" for purposes of Regulation Z and apply all of Regulation Z's mortgage servicing rules to confirmed successors in interest. With respect to prompt payment crediting, the proposal clarifies how servicers must treat periodic payments made by consumers who are performing under either temporary loss mitigation programs or permanent loan modifications. Under the Bureau's proposal, periodic payments made pursuant to temporary loss mitigation programs would continue to be credited according to the loan contract and could, if appropriate, be credited as partial payments, while periodic payments made pursuant to a permanent loan modification would be credited under the terms of the permanent loan agreement. With respect to the requirement to send periodic statements, the proposal: (1) clarifies certain periodic statement disclosure requirements relating to mortgage loans that have been accelerated, are in temporary loss mitigation programs, or have been permanently modified, to conform generally the disclosure of the amount due with the Bureau's understanding of the legal obligation in each of those circumstances; (2) requires servicers to send modified periodic statements to consumers who have filed for bankruptcy, subject to certain exceptions, with content varying depending on whether the consumer is a debtor in a Chapter 7 or Chapter 13 bankruptcy case; and (3) exempts servicers from the periodic statement requirement for charged-off mortgage loans if the servicer will not charge any additional fees or interest on the account and provides a final periodic statement. Finally, the proposal excludes certain seller-financed transactions from being counted toward the 5,000 loan limit, allowing servicers that would otherwise qualify for small servicer status to retain their exemption while servicing those transactions.

The following two proposed requirements involve information collections or changes to existing information collection requirements in Regulation Z:

Successors in Interest: That servicers treat a confirmed successor in interest as a "consumer" for purposes of Regulation Z's mortgage servicing rules.

Consumers in Bankruptcy: That servicers provide periodic statements to consumers in bankruptcy. To ensure compliance with § 1026.41, the proposal includes proposed sample

periodic statements forms that servicers could use for consumers in bankruptcy and that the Bureau intends to consumer test. *See* Appendices H-30(E) and H-30(F).

2. Use of the Information

The third party disclosures in this collection are required by statute and regulations. Consumers use the disclosures required by TILA and Regulation Z to shop among options and to facilitate their informed use of credit terms as well as to protect themselves against inaccurate and unfair credit billing practices. Disclosures are not submitted to the federal government.

3. Use of Information Technology

The required disclosures, other than the periodic statements, may be provided to successors in interest in electronic form, subject to compliance with the consumer consent and other applicable provisions of the E-Sign Act Section 101(d) The periodic statement disclosures may be provided to successors in interest and consumers in bankruptcy in electronic form subject to affirmative consent by the consumer and would not require compliance with E-Sign verification procedures.

4. Efforts to Identify Duplication

The disclosures required by TILA and Regulation Z are not otherwise required by Federal law. State laws do not duplicate these requirements, although some States may have other rules applicable to consumer credit transactions.

5. Efforts to Minimize Burdens on Small Entities

Under the proposed rule, the Bureau estimates that approximately 80 percent of respondents are small entities.

The Bureau developed proposed sample forms to assist servicers with complying with the proposed periodic statement disclosures for consumers in bankruptcy. The CFPB is further permitting creditors, assignees, and servicers to provide the periodic statement disclosure in the same envelope or email with other statements provided to consumers.

The existing rule exempts certain small servicers from the requirements of the periodic statement and contains other exemptions from the periodic statement requirement—for fixed-rate loans where servicers provide consumers with coupon books, for reverse mortgages, and for timeshares. The proposed rule contains additional exemptions from the periodic statement requirement for certain consumers in bankruptcy and for charged-off mortgage loans that may further minimize burden for small entities that service such loans.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

This information is not submitted to the federal government. These third-party disclosures are required by statute, 15 U.S.C. 1601 *et seq.*, and regulations. The burdens on

respondents are the minimum necessary to ensure that successors in interest receive the information required and that consumers in bankruptcy receive the disclosures required for periodic statements.

7. Circumstances Requiring Special Information Collection

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

In accordance with 5 CFR 1320.11, the Bureau has published a notice of proposed rulemaking in the *Federal Register* inviting the public to comment on the information collection requirements contained in the proposed rule. Comments received in response to the notice of proposed rulemaking will be addressed in the preamble to the final rule.

Prior to issuing the proposed rule, the CFPB consulted with HUD and other Federal agencies consistent with section 1022 of the Dodd-Frank Act.¹

The proposal sets forth a preliminary analysis of these effects, and the Bureau requested comments on this topic. In addition, the Bureau has consulted, or offered to consult, with the prudential regulators, HUD, FHFA, the Federal Trade Commission, and the Federal Emergency Management Agency, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies. The Bureau also held discussions with and solicited feedback from the United States Department of Agriculture Rural Housing Service, the Federal Housing Administration, Ginnie Mae, and the Department of Veterans Affairs regarding the potential impacts of the proposed rule on those entities' mortgage loan insurance or securitization programs. The Bureau also consulted with other stakeholders, including roundtables with industry representatives and consumer advocacy groups.

9. Payments or Gifts to Respondents

Not applicable.

10. Assurances of Confidentiality

There are no assurances of confidentiality provided to respondents.

11. Justification for Sensitive Questions

¹ Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with \$10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

There is no information of a sensitive nature being requested.

12. Estimated Burden of Information Collection

The Bureau's previous estimate of the ongoing hourly costs for each information collection prior to application of the proposed rules are listed below.

	Respondents	Disclosures Per Respondent	Hours burden per disclosure	Total burden hours
Ongoing:				
ARM 20(c) Notice.....	824	600	0.00290	1,000
ARM 20(d) Notice.....	824	300	0.00290	1,000
Periodic Statements.....	424	42,400	0.00286	52,000
Prompt Crediting & Payoff Statements.....	824	800	0.00290	2,000
Total	824	44,100	0.00289	56,000 ²

The estimated one-time and ongoing costs attributed to the information collections in the proposed rules are listed below.

	Bureau Respondents	Disclosures per Bureau Respondent	Hours Burden per Disclosure	Total Burden Hours for Bureau Respondents
<u>Ongoing</u>				
Successors in Interest—Regulation Z	814	24	0.003	56
Periodic Statements in Bankruptcy	157	29,521	0.002	8,247
Sub-Total	814	5,718	0.002	8,303
<u>One-Time</u>				
Successors in Interest—Regulation Z	814	1	0.05	41
Periodic Statements in Bankruptcy	157	1	17.835	2,791
Sub-Total	814			2,832
New Burden Total (Bureau):	814			11,134

Total Burden Hours: Existing 66,509 + New 11,134 = 77,643

Under the final rule, the Bureau accounts for the paperwork burden associated with Regulation Z for the following respondents pursuant to its administrative enforcement authority: insured depository institutions with more than \$10 billion in total assets; their depository institution affiliates; and specific nondepository institutions. The Bureau estimates there are 1,508 total respondents (120 depository institutions and affiliates and 1,388 nondepository

² The current OMB inventory is 66,509 hours. The differenced will be reconciled when this information collection request is resubmitted to OMB at the final rule stage.

institutions).³ The Bureau and the FTC generally have joint enforcement authority over nondepository institutions. To prevent double-counting the same population, the Bureau has allocated to itself half of the estimated burden to nondepository institutions. This equals the burden on 814 respondents⁴ under the assumption that the burden on each respondent equals the average burden across all respondents.

The Bureau calculates labor costs by applying appropriate hourly cost figures to the burden hours described below. The hourly rates for lawyers and software developers are based upon the Bureau of Labor Statistics' national mean hourly wage estimates by occupational employment. The estimate for customer service agents reflects reports to the Bureau by market participants. To obtain fully-loaded hourly rates, the Bureau divides hourly wages by 67.5%.⁵ The fully-loaded hourly labor cost by occupation is given below.

Occupation	Hourly Costs to Institutions
Lawyers	\$93
Software developer	\$74
Compliance officer	\$47

Most servicers rely upon vendor servicing systems because the use of vendors substantially mitigates the cost of revising software and compliance systems as the efforts of a single vendor can address the needs of a large number of servicers. Based on discussions with a leading servicer technology provider, the CFPB believes that updates necessitated by new regulations would likely be included in regular annual updates for larger and medium sized institutions. These costs would not be passed on to the client servicers. Based on information provided by small entity representatives that participated in the Small Business Review Panel process for the 2013 TILA Servicing Final Rule, the Bureau estimates that vendors that work with smaller servicers will pass along the costs of any system upgrades.

Although most servicers rely on software and compliance systems provided by outside vendors, a small number of large entities maintain their own servicing platforms and will require software and information technology updates. The Bureau estimates that one large entity and 29 large nondepository respondents operate in-house servicing platforms. As such, the Bureau estimates that 15 Bureau respondents have internally-operated and designed servicing platforms.

All respondents will have ongoing production and distribution costs from providing new disclosures. Production costs include deriving and assembling the information needed for disclosure, while distribution costs consist of printing and mailing. The Bureau believes that most large servicers (both depository and nondepository) handle production costs internally and

³ The CFPB has administrative enforcement authority over 154 depository institutions and depository affiliates. The CFPB estimates that 34 of these entities did not service any mortgages in 2011 and excludes these entities for the purposes of this PRA analysis.

⁴ $120 + (1,388/2) = 814$.

⁵ Bureau of Labor Statistics data indicate that, in Q4 2010, wages accounted for 67.5% of the total cost of compensation for credit intermediation and related activities.

employ vendors for distribution. The Bureau estimates each disclosure requires 0.003 hours of internal labor to produce. Based upon talks with large servicers, the Bureau estimates the per response distribution cost for large servicers is approximately 30 cents.

A. Successors in Interest

The proposed rule would apply the servicing rules in Regulation Z to loans secured by homes that have been transferred to successors in interest. Therefore, the number of disclosures required by the TILA servicing rules would increase as a result of the requirement to provide disclosures to a larger number of consumers.

i. One-time burden

Reviewing the regulation

The Bureau estimates that, for each covered person, one lawyer and one compliance officer would each take 0.05 hours to read and review the sections of the rule that describe the successors in interest provisions, based on the length of the sections. The burden allocated to the Bureau respondents is therefore $0.05 * 814 * 2 = 81.4$ hours.

Software and information technology

The proposed rule would require servicers to provide the same disclosures to successors in interest that they already provide to other consumers, including any consumer that transfers interest in a property to a successor in interest. As a result, the Bureau does not expect that servicers will incur software and information technology costs in connection with the proposal.

ii. Ongoing burden

Based on discussions with servicers and its knowledge of the industry, the Bureau estimates that each year the number of successors in interest covered by the rule is 0.1% of all mortgage loans covered by Regulation Z. The Bureau has previously estimated that the annual burden of complying with the servicing rules in Regulation Z is 56,000 hours. Because the successors in interest proposal would increase this burden by 0.1%, the estimated annual burden of the successors in interest proposal is $0.001 * 56,000 = 56$ hours.

Successors in Interest	
Bureau share of respondents	814
Bureau share of responses	19,400
Average frequency per response	23.8
<i>Annual Burden (hrs):</i>	
Time per response (hours)	0.003
Total (hours)	56

B. Periodic Statements for Certain Consumers in Bankruptcy

The requirement to send periodic statements to certain consumers in bankruptcy will require certain one-time and ongoing costs to respondents. Certain small servicers (those servicing less than 5,000 mortgages, all of which the servicer owns or originates) are exempt from this requirement. The existing rule contains other exemptions from the periodic statement requirement—for fixed-rate loans where servicers provide consumers with coupon books, for reverse mortgages, and for timeshares—and the proposed rule contains other exemptions from the periodic statement requirement for certain consumers in bankruptcy and for charged-off mortgage loans.

i. One-time burden

Reviewing the regulation

The CFPB estimates that, for each respondent, one attorney and one compliance officer would each take approximately 1.25 hours to read and review the sections of the regulation that describe the changes to Regulation Z § 1026.41(c) related to periodic statements for consumers in bankruptcy, based on the length the sections. The Bureau estimates that all but 73 small nondepositories are exempt from the rule (the Bureau assumes half of the total nondepository burden, so the number of institutions for this analysis includes 37 nondepositories), which reduces the number of covered entities that are Bureau respondents from 814 to 157. The burden allocated to the CFPB for depository and nondepository institutions is therefore $1.25 \times 2 \times 157 = 391$ hours.

Software and information technology

Covered persons who maintain their own software and compliance systems would incur one-time costs to adapt their software and compliance systems to produce the new forms. The Bureau estimates that the 15 institutions with their own servicing platforms will each require 160 hours to update their systems. Therefore, the aggregate one-time hourly burden from software and information technology updates is $15 \times 160 = 2,400$ hours.

ii. Ongoing burden

Covered persons will have ongoing production and distribution costs from providing the new disclosure. Regarding ongoing burden, consumers who currently receive a periodic statement or billing statement are receiving these disclosures in the normal course of business. The Bureau estimates that 30% of the consumers in bankruptcy who are entitled to periodic statements under the proposed rule currently receive periodic statements. For servicers that do not currently provide periodic statements to consumers in bankruptcy, the burden of distributing the periodic statement disclosure to these consumers is, for purposes of PRA, the ongoing burden from distribution costs from the periodic statement disclosure. The Bureau estimates that there are approximately 328,000 mortgage loans serviced by large servicers for consumers in bankruptcy that would be entitled to statements under the proposal and that, of these, 229,000 loans are serviced by servicers that currently do not provide periodic statements to consumers in bankruptcy.

The Bureau estimates that large servicers will incur internal production costs of approximately 0.003 hours per disclosure. Multiplying by 2,748,000 disclosures (229,000 million mortgages*12 monthly statements) yields 8,247 hours. Large depositories will also incur distribution costs of \$0.30 per response from their print vendors for the distribution of the periodic statements, for an annual aggregate cost of \$824,670.

Periodic Statements for Certain Consumers in Bankruptcy	
Bureau share of respondents	157
Bureau share of responses	2,748,900
Average frequency per response	29,521
Annual Burden (hrs):	
Time per response (hours)	0.003
Total (hours)	8,247

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

The Bureau estimates that covered persons will incur total vendor costs of \$830,000 associated with producing and mailing the aforementioned disclosures. The Bureau has previously estimated that the annual vendor costs of complying with certain of the servicing rules in Regulation Z is \$5,678,000. Because the successors in interest proposal would increase this burden by an estimated 0.1%, the estimated vendor costs of the successors in interest proposal is $0.001 * \$5,678,000 = \$5,678$. For periodic statements to consumers in bankruptcy, the Bureau estimates that large servicers incur a cost of \$0.30 per disclosure to distribute the statements. The estimated total annual cost burden to respondents is therefore approximately $\$0.30 * 2,748,900 = \$824,670$.

14. Estimated Cost to the Federal Government

Because the CFPB does not collect any information, the cost to the CFPB is negligible.

15. Program Changes or Adjustments

Summary of Burden Changes

	Total Respondents	Annual Responses	Burden Hours	Cost Burden (O & M)
Total Annual Hours Requested	824	26,284,297	77,643	\$10,355,994
Current OMB Inventory	824	21,629,964	66,509	9,526,000
Difference (+/-)	0	+4,654,333	+11,134	+\$830,000
Program Change				
Discretionary		+4,654,333	+11,134	+\$830,000
New Statute				
Violation				
Adjustment				

The CFPB is proposing to make adjustments to disclosures currently required by Regulation Z's mortgage servicing rules. As described above, this collection is an existing information collection under Regulation Z. For a more detailed description, see the previous response to A.1 (Justification).

The information collections for the Bureau's disclosures with respect to successors in interest and periodic statements for consumers in bankruptcy are new requirements under the proposed rule. This Collection adds 8,000 burden hours and \$830,000 in on time and ongoing costs to those required to comply with this information collection. For a more detailed explanation of these adjustments, see the previous response to A.1 (Justification).

16. Plans for Tabulation, Statistical Analysis, and Publication

The information collections are third-party disclosures. There is no publication of the information.

17. Display of Expiration Date

The OMB number will be displayed in the PRA section of the notice of final rulemaking and in the codified version of the Code of Federal Regulations. Further, the OMB control number and expiration date will be displayed on OMB's public PRA docket at www.reginfo.gov.

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3) and is not seeking an exemption to these certification requirements.